

**MINUTES OF THE FEBRUARY 9, 2021
BOARD OF DIRECTORS MEETING OF
NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT**

The Board of Directors of North Plains Groundwater Conservation District met in regular session on February 9, 2021, at 9:00 a.m. at the offices of North Plains Groundwater Conservation District, 603 East First Street, Dumas, Texas 79029. Due to the restrictions of COVID-19, the meeting was held through Zoom Meeting in Dumas, Texas. The following persons participated in the Meeting:

Members Present at 9:02 a.m.:

Bob B. Zimmer;
Mark Howard, Vice-President;
Zac Yoder, Secretary;
Daniel L. Krienke, Director
Gene Born, Director; and,
Harold Grall, Director.

Staff present during part or all of the meeting:

Steve Walthour, General Manager;
Kirk Welch, Assistant General Manager;
Kristen Blackwell, Administration Manager;
Paige Glazner, Conservation Outreach Assistant;
Odell Ward, Field Supervisor;
Dusty Holt, Permitting Specialist;
Dale Hallmark, Hydrologist; and,
Curtis Schwertner, Natural Resource Specialist.

Others present during part or all of the meeting:

Nich Kenny;
Mandi Boychuk, Natural Prairie & Northside Farmland;
Tom Forbes, Esq.;
F. Keith Good, General Counsel for the District; and,
Ellen Orr, Paralegal.

President Zimmer declared a quorum present and called the meeting to order at 9:02 a.m. President Zimmer gave the invocation and led the pledge.

1 – Public Comment

No Public Comment was made to the Board.

2 – Consent Agenda

The Consent Agenda was discussed by the Board and consisted of: the review and approval of the Minutes of the regularly scheduled Board of Directors Meeting held on January 15, 2021; the review and approval of un-audited District expenditures for January 1, 2021 through January 31, 2021, including the General Manager's expense and activity report; and the review and approval of payment to Lemon, Shearer, Phillips & Good, P.C. for professional services and out-of-pocket expenses incurred from January 1, 2021 through January 31, 2021, in the amount of \$7,771.25.

Harold Grall moved to approve the Consent Agenda. Daniel L. Krienke seconded the motion, Justin Crownover joined the Zoom meeting at 9:05 a.m., and the motion was unanimously approved by the Board.

Mr. Zimmer stated that today he would like to move Agenda Items i, j k and probably item m to the front of the meeting while Tom Forbes is here so that if Tom needs to do something else, he can do so; however, he is welcome to remain until the end of the meeting, if he so desires.

Action Agenda 3.j. - Receive report and consider action regarding compliance matters before the District.

Mr. Zimmer asked Mr. Walthour if he had anything about Agenda item j which he wished to discuss in open session.

Mr. Walthour stated he would address the compliance list. Ag Producers Coop, Scott Sonnenburg, was removed from the compliance list. Mr. Sonnenburg explained to District staff exactly what he was doing on the property to be compliant. Mr. Walthour stated that Kristen can explain the problem we've had with the remaining three people on the compliance list. Kristen Blackwell stated that the remaining three persons on the compliance list are people with whom the District has had compliance issues and from whom District staff has received little or no response.

Action Agenda 3.i. - Receive report and consider action related to 87th Texas Legislative Session and Issues.

Mr. Zimmer ask Mr. Walthour if there was anything which he wished to address regarding Agenda item i before closed session.

Mr. Walthour stated that he would report on Agenda item i regarding the listing of Bills that are in the Board packet. Mr. Walthour stated that there are three new bills that we're looking at that could affect political subdivisions that are on the second page of the report in the packet --- it's HB 634, HB 1030, HB 1154 and HB 768, also. All of those Bills, we will be paying attention to and those are the only ones that we have added. Mr. Walthour reported that those Bills really have more to do with public notices and things that political subdivisions have to have. Mr. Walthour stated that that the one which the District has been working on primarily is SB 152. As far as that's concerned, Keith Good and Tom have been involved and we've worked on generating language for this Bill. Mr. Walthour stated that SB 152, HB 668 and HB 666 all point to the same issue.

Mr. Walthour inquired of Tom Forbes if Senator Perry had released anything new on SB 152?

Mr. Forbes replied that he had been in touch with the lead person on his staff, Catherine Thigpen, who --- back up a second -- I think you all know Senator Perry is the chairman of the Senate Water, Agriculture, and Rural Affairs Committee, so all of these Bills would be in his committee in the Senate. In the House it will be Natural Resources which Tracy King, from Uvalde, is the chair and Four Price is on that committee. To Senate Bill 152, I've been in touch with Catherine Thigpen a lot on Senator Perry's staff. She said that they're working on language. They've been talking to all the stakeholders, including input that we've given, she's been talking to High Plains a lot, is what she said to me, and I said, well we were working with them and she said they're taking a lot of the suggestions from High Plains. She will be sending me the next version of the Bill as soon as it's ready, so it's a work in progress and I will get it as soon as --- I'm in touch with their office pretty frequently --- so that's the situation on Senate Bill 152. I think that it will wind up being something that'll work, from my conversations with Steve, and Senator Perry is very sympathetic to our particular needs.

Mr. Walthour provided the following Bill report for the Board:

Groundwater (Previously discussed by Board)

HB 152 - Buckley: relating to a study by the Texas Water Development Board of groundwater conditions in certain counties.

Texas Water Development Board study of the Trinity and Edwards Aquifers north of the Colorado River in Bell, Burnet, Milam, Travis, and Williamson Counties.

<https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB00152I.pdf>

HB 666 – Harris: relation to the regulation of groundwater conservation districts.

Companion Bill to SB 152 that amends 36.066 addressing the awarding of attorney's fees, new section 36.1025 Petition to Change Rules, amends 36.1131 and new section 36.1141 Notice required for application for permit or permit amendment.

<https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB00666I.pdf>

HB 668 – Harris: relating to the regulation of groundwater conservation districts. Possibly a duplicate filing of HB 666.

<https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB00668I.pdf>

HB 966 – Burns: relation to the award of attorney's fees and other costs in certain suits involving groundwater conservation districts.

Amends 36.066 and 36.102 relating to awarding attorney's fees for both general and rule compliance lawsuits.

<https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB00966I.pdf>

SB 152 – Perry: Companion Bill to HB 666 and HB 668 that amends 36.066 addressing the awarding of attorney's fees, new section 36.1025 Petition to Change Rules, amends 36.1131 and new section 36.1141 Notice required for application for permit or permit amendment.

<https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB00152I.pdf>

Political Subdivisions- General (Previously discussed by Board)

SB 234 – Hall: relating to the use by a political subdivision of public funds for lobbying activities.

Amends chapter 556 of the Government Code and chapter 81 of the Local Government Code to prohibit a political subdivision for using public funds for lobbying activities.

<https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB00234I.pdf>

HB 749 – Middleton: Companion Bill to SB 234. Amends chapter 556 of the Government Code and chapter 81 of the Local Government Code to prohibit a political subdivision for using public funds for lobbying activities.

<https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB00749I.pdf>

Political Subdivisions – New Bills

HB 634 – Morales, relating to the type of newspaper required for the publication of notices by governmental entities or representatives in certain counties. This would apply to counties that have a population of 30,000 which far exceeds NPGCD county populations. We need to watch this one to make sure the high population requirement is not changed.

<https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB00634I.pdf#navpanes=0>

HB 1030 – Shaheen, relating to the publication of required notice by a political subdivision by alternative media. This would be a potential avenue for the District to go to electronic media for publication of notices because electronic media may have a wider distribution than current media such as newspapers.

<https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB01030I.pdf#navpanes=0>

HB 1154 – Jetton, relating to the requirement that certain political subdivisions cause certain information to be posted on an Internet website. Amends Government Code Sections 403.0241, 551.1283, and 2051.153 requiring a political subdivision to require more extensive financial information and other data on its website.

<https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB01154I.pdf#navpanes=0>

HB 768 – Patterson, relating to the requirement that certain governmental bodies make audio and video recordings of open meetings available on the Internet. Amends Government Code Section 551.128 to require any political subdivision located wholly or partly in a county that has a population of 5,000 or more to make a video and audio recording of reasonable quality of each regularly scheduled open meeting that is not a work session or a special called meeting.

<https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB00768I.pdf#navpanes=0>

Executive Session - Section 551.071 of the Texas Government Code.

At 9:11 a.m., Daniel L. Krienke moved to go into Executive Session on Agenda Items 3J, Receive Report and Consider Action Regarding Compliance Matters Before the District and Agenda Item 3I, Receive Report and Consider Action Related to the 87th Texas Legislative Session and Issues, in compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, §551.071, to obtain legal advice on matters in which the duty of attorneys to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551. Harold seconded the motion, and it was unanimously approved by the Board.

Executive Session: At 9:11 a.m., the Board went into Executive Session. At 9:39 a.m., Harold Grall moved that the Board reconvene into regular session. Daniel L. Krienke seconded the motion and it was unanimously approved by the Board.

The Board reconvened into regular session at 9:41 a.m.

Action Agenda 3.m. - Receive report regarding developing future water resources.

Mr. Walthour presented a Memorandum from Tom Forbes, Esq., dated February 1, 2021 regarding the interbasin transfer project to the Board members.

Mr. Walthour stated that the Board has been talking about trying to get the water transfer project done and the last time the Board met, Harold and I agreed to go look for potential participants in this and we're here to report --- Harold, please tell us where we on the potential participants.

Mr. Grall stated that he and Steve have a nice visit with Mike Running, who is the executive director of the EDC in Moore County and he's very interested in the project. He pointed us toward the Ports-to-Plains network, or group. He thought that they may be an entity that we may want to contact and get involved with. I'm not sure if everyone on the Board is familiar with Ports-to-Plains but it's basically a highway project started way back when, to connect Mexico up to Canada, and it's a trade route that they were trying to establish. It has been established, to some extent, and is designed to affect the little towns along that trade route to help them grow and prosper economically. I think they have accomplished a lot of the things that they wanted to, but Mike Running thought that the water transfer project is something that they may want to get involved in to add into to what they are currently doing. Steve has already sent Ports-to-Plains a letter. Mr. Grall inquired whether everybody had access to that letter?

Mr. Walthour responded that he had not sent that e-mail to the Board. Mr. Walthour stated that he sent an e-mail to Mr. Kiley, who is the vice president of Ports-to-Plains. The reason that we're contacting them, as we're sitting in the meeting with Mr. Running, we had a map of generally where Ports-to-Plains runs, and it covers the Ogallala --- it's all the little towns and cities within that Ogallala area that we want to move water, if we could move water. Ports-to-Plains is the type of organization that we would get in contact with to help us push this through. Mr. Walthour reported that he hasn't heard back from Ports-to-Plains, but he and Harold were only able to meet with Mike Running last week. The reason that it took us so long to meet with Mr. Running is that he actually had COVID-19 and he was just back at work last week. Mr. Running thought that this was some real potential for a lot of these little cities all along the central part of the Ogallala. When we hear back from Mr. Kiley, I will report on what he says and have a conversation with him.

Meanwhile, I asked Tom to put together what our cost would be. I threw out some fairly large numbers when we first started discussing this because I was looking at the total cost to us, or someone, getting this going and that's what Tom gave me. Then, I ask Tom for our costs. I'm requesting that the Board authorized me to spend about \$20,000 a year, plus expenses, over the next two years to see if we can get this study going. If we can't get it done in the next two years, or get something on its way in two years, then it's probably not going go. Mr. Walthour stated he thinks if we could do something for the price of a pickup truck over two years to see if we could actually get something out of this, especially since our friends in Congress are really wanting to spend money right now, to maybe get a consortium together and move forward to get the 1982 study redone. Mr. Walthour stated that he was open for questions and that Tom is on the line, too.

Mr. Grall inquired if everyone had had an opportunity to read all those studies.

Mr. Crownover stated that he had a question. When you talked about the expenses--- when you say \$20,000 plus expenses, are those expenses like another \$4,000 or \$5,000 or is it \$100,000 when you say expenses plus \$20,000?

Mr. Forbes stated that it's hard to say -- I mean it would be -- I think that starting now, it would be things like postage, and maybe a little bit of travel, but I don't think so, I think my sense of it is, obviously we have to put the whole scope of work together and

contact these other districts and other potential partners in other states like we discussed in the past. That can be done over the phone or with zoom meetings, etc. So, I don't anticipate a lot of expenses, but if some travel is required, there would be some expense, but I'd be surprised --

Mr. Crownover inquired of Mr. Forbes if the expenses he was talking were anticipated to be more than the \$20,000? Mr. Forbes replied, no. I think we could do most of this electronically, certainly at the beginning stages, to see, for example, who's interested enough to make it worthwhile for us to have an in-person meeting and when can we have in person meetings, and all that. I mean the last year, as we all know, has made doing this a lot more acceptable. I don't know, Justin, does this answer your question?

Mr. Crownover responded yes, that just seemed open-ended for a second. I mean this deal -- talking about bring water in here -- God, can you imagine what that would do for us? It would be impactful.

Mr. Walthour said a lot of the postage and electronic communication would come out of the Dumas office -- we have the staff to do that. I am not at this point looking for any more money in our overall budget -- we will find money in our budget to do this and move some stuff around to pay for this as we go at least the rest of this year and next year you can look at this and see where we are and how we're doing, and you can go to the next year.

Mr. Zimmer stated that he thought the intent was either a motion for \$20,000 per year for two years or it could be one year at a time or however you want to word it if you want to do this at all.

Justin Crownover moved that the District spend up to \$20,000 per year, plus incidental expenses, for the next two years to see if it is possible to obtain participants to assist with redoing the 1982 Study. Mark Howard seconded the motion, and it was unanimously approved by the Board.

Tom Forbes departed the meeting at 9:53 a.m.

Action Agenda 3.a. - Consider resolution regarding optional personal property taxation in 2021 for the North Plains Groundwater Conservation District to property owners in Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore and Hutchinson Counties, Texas.

Mr. Walthour stated that annually, the North Plains Groundwater Conservation District determines whether it will tax optional personal property including:

- Personal Boats;
- Personal Vehicles;
- Airplanes;
- Motor homes; and
- Trailers.

If an entity decides to tax any of the above listed property, the entity must tax all of the above. Historically, the Board has chosen not to tax the optional personal property.

The General Manager recommended the Board adopt the resolution not to collect the above mentioned optional personal property taxes for 2021 in Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore and Hutchinson Counties, Texas.

The proposed resolution was presented to the Board.

Daniel L. Krienke moved to adopt the proposed Resolution presented by the General Manager to exempt, pursuant to Texas Tax Code Section 11.14, all personal boats, personal vehicles, airplanes, motor homes, and travel trailers that a person owns and that are not held or used for the production of income from personal property taxes for 2021 in Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore and Hutchinson Counties, Texas. Mark Howard seconded the motion, and it was unanimously approved by the Board.

Action Agenda 3.b. - Consider Homestead Exemptions for 2021.

The General Manager stated that historically, the District has adopted the following homestead exemptions.

- The greater of 10 % of the taxable value or \$10,000 for a Homestead;
- \$100,000 – for persons over 65
- \$100,000 - Disability SS
- The maximum percentage for Disabled Veterans.

The General Manager recommended that the Board adopt the foregoing homestead exemptions for calendar year 2021.

Daniel L. Krienke moved that the Board adopt the following homestead exemptions for calendar year 2021:

- The greater of 10% of the taxable value or \$10,000 for a Homestead;
- \$100,000 – for persons over 65;
- \$100,000 - Disability SS; and,
- The maximum percentage for Disabled Veterans.

Harold Grall seconded the motion, and it was unanimously approved by the Board.

Action Agenda 3.e. - Consider final compliance approval of Water Well Permits as active and complete wells.

The General Manager reported that District Rule 2.13 provides, after the site inspection is complete, and it is determined that the Well (and all Wells within the Groundwater Production Unit) is/are in compliance with the Rules of the District, and the Well Permit application, the General Manager shall submit the Well Permit to the Board for final compliance approval.

The General Manager reported that the District staff had processed 30 Water Well Permits which are ready for Board consideration and approval. These permits, listed in the table below, represent completed Wells that have been inspected and are in compliance with District Rules. The inspections verify that the Wells were completed as required by the respective Permits, including proper Well location, Well classification, maximum yield, and proper installations of check valves and flow meters. Copies of the individual permits were presented to the Board.

Permit Number	Permit Status	Well Class	Quarter	Section	Block	Survey	Yards N S	Yards E W
DA-11108	Board	B	SE/4	15	6	CSS	103 S	161 E
DA-11251	Board	C	SE/4	21	6	CSS	80 S	681 E
DA-11256	Board	B	NW/4	46	1	B&B	763 N	789 W
DA-11257	Board	C	NW/4	50	1	B&B	198 N	45 W
DA-11258	Board	C	SE/4	49	1	B&B	542 S	773 E
DA-11262	Board	B	SW/4	26	6	CSS	579 S	446 W
DA-11292	Board	B	NW/4	77	5	CSS	121 N	132 E
DA-11383	Board	C	NW/4	11	W H Pardue	NONE	621 N	192 W
HA-11244	Board	D	NE/4	1	5	GH&H	82 N	140 E
HA-11245	Board	C	NE/4	2	5	GH&H	106 N	164 E
HA-11275	Board	B	SE/4	52	13	CSS	178 S	152 E
HA-11276	Board	B	SE/4	52	13	CSS	58 S	556 E
HN-11259	Board	B	SE/4	9	4-T	T&NO	104 S	10 E
HN-11277	Board	D	SW/4	89	2	GH&H	510 S	148 W
HN-11285	Board	C	NE/4	28	4-T	T&NO	292 N	101 E
HN-11296	Board	D	SE/4	128	4-T	T&NO	800 S	516 E
HN-11317	Board	D	NE/4	130	45	H&TC	859 N	880 E
HU-11289	Board	D	NE/4	NONE	NONE	J J HALL	1580 N	208 E
HU-11290	Board	D	SE/4	NONE	NONE	J J HALL	1019 S	135 E
LI-11341	Board	D	NW/4	1	BLK D	WISER	92 N	899 W
MO-10590	Board	D	SW/4	81	3-T	T&NO	36 S	153 W
MO-11215	Board	C	NW/4	174	44	H&TC	15 N	35 W
MO-11255	Board	D	SW/4	370	44	H&TC	862 S	51 W
MO-11284	Board	B	SW/4	129	3-T	T&NO	840 S	873 W
MO-11286	Board	C	NE/4				6 N	866 W
MO-11287	Board	C	SE/4	414	44	H&TC	23 S	781 E
MO-11321	Board	B	NE/4	384	44	H&TC	506 N	25 E
MO-11322	Board	B	NW/4	385	44	H&TC	247 N	33 W
SH-10902	Board	B	SW/4	28	3-T	T&NO	102 S	110 W
SH-11180	Board	B	SW/4	36	1-T	T&NO	627 S	36 W

It was noted that Director, Mark Howard, had two Well Permits listed on the Well Permit Schedule, Permits HA-11244 and HA-11245.

Daniel L. Krienke moved to approve Well Permits HA-11244 and HA-11245 on the Well Permit Schedule, noting that the Wells are properly equipped and otherwise comply with District Rules. Harold Grall seconded the motion and it approved by the majority vote of the Board with Mark Howard abstaining from the vote.

Harold Grall moved to approve all of the remaining Well Permits on the Well Permit Schedule noting that the Wells are properly equipped and otherwise comply with District Rules. Daniel L. Krienke seconded the motion and it was unanimously approved by the Board.

Action Agenda 3.d.- Receive report and consider action regarding the District's agriculture conservation programs and other conservation education programs.

Daniel L. Krienke reported that the Ag Committee discussed several issues. We had an extensive visit with Nich Kenny. He went over what happened last year at the Water Conservation Center continuing so that we have some consistency on what's going on out at the Water Conservation Center. Of course, we are going to alternate between cotton and corn, so we are going to continue to do that with some slight modifications. There is good work being done out there so we're going to continue that some slight modification.

The Master Irrigator – the Ag Committee had developed a list of recommendations to drive that program. One thing we had not addressed was what if you had an entity with multiple people attending and so we addressed that on a first-come first-serve basis. Two criteria for the Master Irrigator is that we want to fill the class up to 25 if there is room. If there are under 25 participants registered, then multiple individuals within an entity could send more people but they would be on a waiting list up to 25. We need to spend the money -- we've got money from the Water Development Board, so we can offer a minimum to each participant and then, based on the total number of people that actually participated and requested funding, that minimum sum could be adjusted upward. Those two things will be added to our list of recommendations for how we proceed – and Kirk will manage that on a first-come first-serve basis.

Mr. Krienke reported that the Ag Committee recommends that the District pay off the remaining balance of the equipment loan funds to the Water Development Board and authorize the General Manager to take any action necessary to cancel the loan. Mr. Krienke stated that we've had a pretty good advertising campaign going on for the last several months. We have no takers, so it looks like sprinkler companies are offering rebates and low interest that most people are taking advantage of. Therefore, no one is taking advantage of our program. The Committee recommends canceling the money program and send the money back.

Mr. Walthour stated that he recommends that we allow Nich Kenny to make his presentation and then those are the proposed motions that would be in front of the Board at the end of Agenda Item D. and Item E.

Nich Kenney stated that he would like to share briefly, some of those slight changes that Danny alluded to. I spoke with the Ag Committee yesterday, and we got some clarity on a handful of things we would like to focus on within the constraints of our corn and cotton program. I would say as a wrap up to 2020, our cotton and corn program was successful. Again, our yields were solid. Some of the things that we wanted to tease out of the experiments that we were able to see, like for example, we added some management to our drip irrigation with some strategies and we were able to finally get it where our drip irrigation surpassed our pivot irrigation which caused the water use efficiency in the drip corn to exceed 8.5 bushels per total inch of water which is definitely a step in the right direction. So, a handful of things that came up in our discussion with the Ag Committee yesterday that we're going to focus on is trying to figure out nuances in early cotton production. It was pretty clear over the last couple of years that our higher population rates within cotton are giving some beneficial gains but by tracking what's going on in the field we've noticed that we're having a real shortfall in early management of cotton. We've got about a 50% stand the last two seasons and that's been consistent. We've realized that we're dealing with cotton that's about 80% germ so when we've got 80% germ and then a final stand of 50%, that leads to a lot of lack of uniformity within the field and we feel like that's the void in our cotton production right now. I think we've got a handle on early, or should be, late season cotton management and we're going to really focus on figuring out our early season cotton management with varieties, water, field prep, etc. Other thing that we're going to continue to look at with SDI is trying to fine tune that production system since we're seeing big gains and water use efficiency. We've also noticed that our plant populations were very weak in the SDI corn versus the pivot corn which would be expected, but I think there's things we can do to manage our early season management on the corn. In drip for reference, our drip corn was about 2,000 plants per acre final stand weaker than our pivot, yet it ended up out yielding the pivot, so there's a gap that I think we can close there by some management strategies and documenting these so as people are transitioning into drip, or considering drip, they can hit the road running and within their first couple of seasons actually see the benefits we're seeing at the Center. We're going to continue on in 2021 with the same essential practices like what Danny mentioned. We will be swapping where we will have now corn in the east pivot and cotton back in the west pivot. Some things we saw in 2019 with cotton in the west pivot that we're going to have to pay attention to is some of the fusarium-type of root and stock viruses that we think are going to be somewhat prevalent because we're

close to the gin and because of that, we probably won't look at much of what's that's happening on the west side of that pivot where the cover crop is. Most everything that we're going to be looking at is going to be on the East side of the pivot. In that area, we will also do our population study again. This will be third consecutive year of having the cotton population study. We're looking at 45,000 seed drop, 65,000, 90,000 and 110,000. That has proven to give us some pretty reliable information as we compare side by side. I think having the third year is going to be crucial on that. As a reminder, when we jumped into that we were looking at three years -- and from the attitude of the Ag Committee yesterday I think we'll continue to push on -- this may be something there that we start to see up to five years of information on with the cotton making fine tuning adjustments as we go. As a reminder, with our drip management on corn we looked at irrigation intervals for the first time last season. Where you are irrigating every day, every second day, every third day and every fourth day. We're going to replicate that effort by putting the corn now on the north drip. We feel that the north drip plots will be also a little bit more random as to which side of the field gets which treatment. What we found last year was that the consistency mattered but the interval that we irrigated really didn't matter and that is to say that the stuff that was irrigated on the drip every day yielded the exact same as the stuff that was irrigated every 4th day, but all of the drip took a huge stepwise change in yield compared to previous years because in each interval we were just rock solid consist. So, we want to see if we can do that again in the north pivot and maybe with a little bit better soil see if we get even a little bit better crop response. That's the layout of what we're doing in 2021. We could go into miles and hours of detail with 2020, but I'm happy to open the discussion up to the Board at this point. Certainly, I would entertain more feedback as to how we can make any work at the Center more relevant.

Mr. Howard stated to Mr. Kenny that he liked what he was doing and thought the population studies were really, really, good and the drip irrigation --- you are doing really good work.

Mr. Zimmer stated I heard you on the radio this morning at KXDJ and I really liked what you had to say in that little plug where you talked about planting populations, the real stand, and then you talked about your yield on the populations and then you talked about cotton quality related to the populations. I thought you hit four great points there. It was a good plug that you did on the radio.

Mr. Kenny responded that I've been of the mindset that the radio programs have been a success. It gets a lot more miles than I thought it would get. It plays a lot and they do a good job helping me condense what I say. I think it's a useful venture.

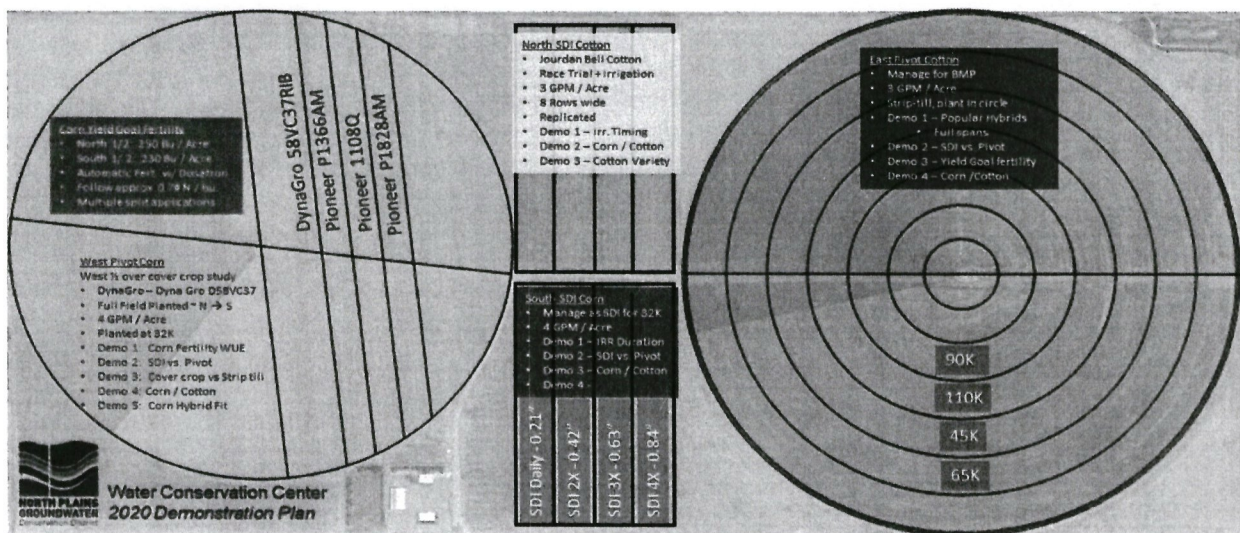
The following written report was presented to the Board in the Board packet:

WCC Conservation Demonstration Updates

8 January 2021 – NPGCD Water Conservation Center Update

Prepared by Nicholas Kenny, P. E.

Figure 1: 2020 WCC Field plan for Corn and Cotton Rotation



Summary of 2020 Cropping Season

The 2020 cropping season at the Water Conservation Center was successful at identifying valuable crop production practices regarding a corn and cotton rotation and maximizing water use efficiency. The following are points of interest from the 2020 season:

1. There is a higher likelihood of pre-water in corn following a cotton crop
2. Permanent soil moisture probes are a preferred tool for soil moisture monitoring
3. Higher cotton populations lead to improved water use efficiency, yield, turnout, and quality
4. Early season cotton management is critical
5. Consistent irrigation frequency in SDI increases yield and water use efficiency
6. Highly managed SDI yields better than LEPA in corn with less water

Pre-Water in Corn / Cotton rotation

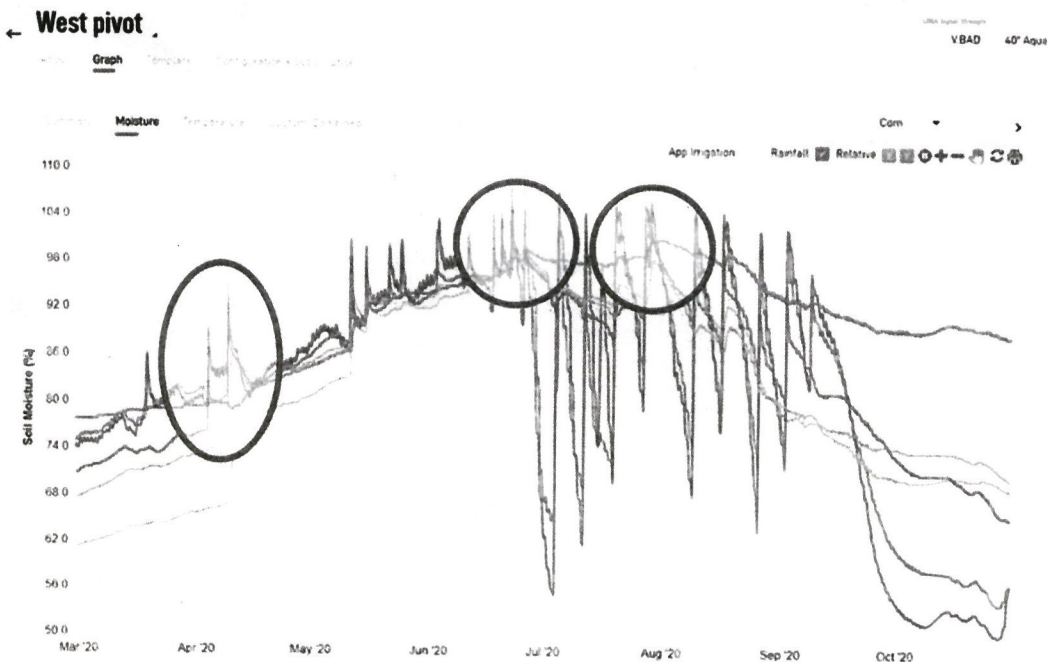
When the corn / cotton rotation at the Water Conservation Center was initiated, there were many unknowns about the long-term strategies that would be required for sustainable production. One of the informed discussion points was the aggressive mining of soil water by cotton following a corn crop that leaves a fair portion of water behind. The 2019 crop indicated that the gross water extraction by cotton above corn was approximately 10" over the two-year span. The concern was that a dry winter following a cotton crop would not adequately recharge the soil moisture before a subsequent corn crop.

Early in 2020, it was obvious that there was a dangerous deficit in soil moisture prior to the corn crop in the West Pivot. This was verified by the use of the GroGuru soil moisture probes which over-wintered in the north half of the pivot. 2.75-inches were applied in mid-April while watering in the pre-emergent herbicide.

Figure 2: Soil moisture summary from the 2020 crop season. Notice the Red column on the right that indicates the water consumed from each foot in the soil profile. The corn crop removed 5.41-inches and the cotton crop removed 6.31-inches from the aggregate 8-foot depth. Two items of note are that the cotton crop was successful at taking every foot of the 8-foot profile to zero plant available water. (The 1.96-inches at the top were the result of an October rainfall event that contributed to the soil moisture between defoliation and harvest.) This is of course, in contrast with the corn crop that did not take any foot of the soil profile to zero. Note that the beginning corn figures include the 2.75-inches of pre-water applied to the corn at time of pre-emergent herbicide.

	Sampling Depth (ft)	Plant Available Water (in.)	% Max PAW	Plant Available Water (in.)	% Max PAW	Difference
NPGCD WCC West Pivot	1 ft.	2.47	123%	0.82	41%	1.65
Sherm Clay Loam	2 ft.	1.98	99%	0.95	48%	1.03
2020 - Corn	3 ft.	1.96	98%	0.73	37%	1.23
2019 - Cotton	4 ft.	1.59	80%	1.18	59%	0.41
2018 - Corn	5 ft.	1.70	85%	1.38	69%	0.32
	6 ft.	1.09	55%	0.87	43%	0.22
	7 ft.	1.08	54%	0.84	42%	0.24
	8 ft.	0.83	41%	0.53	27%	0.30
		12.70	79%	7.29	46%	5.41
NPGCD WCC East Pivot	1 ft.	2.58	129%	1.96	98%	0.62
Sherm Clay Loam	2 ft.	1.84	92%	0.06	3%	1.78
2020 - Cotton	3 ft.	1.34	67%	-0.02	-1%	1.36
2019 - Corn	4 ft.	1.03	52%	-0.04	-2%	1.07
2018 - Cotton	5 ft.	0.78	39%	-0.28	-14%	1.06
	6 ft.	-0.02	-1%	0.22	11%	0.24
	7 ft.	0.52	26%	0.18	9%	0.34
	8 ft.	0.55	27%	0.22	11%	0.32
		8.62	54%	2.31	14%	6.31
		21 May 2020 Corn 5 May 2020 Cotton		14 October 2020 Corn 13 November 2020 Cotton		

Figure 3: GroGuru chart of the entire season on the West Pivot corn. Notice the circled locations: mid-April when 2.75-inches was applied prior to planting, early-June when the profile is "full" prior to the critical management point, and the full profile in late-July just prior to pollination due to beneficial rainfalls during July.



Permanent Soil Moisture Probes

Three permanent GroGuru soil moisture probes were installed at the WCC for the summer crops in 2019; one each in the West Pivot, East Pivot, and in a dryland corner. The probes remained installed through the 2019 harvest, overwintered, were in place for planting, through all field operations, and again through the 2020 harvest. The probes have continued to record and transmit data consistently through this period.

The telemetry portion of the GroGuru probe is a separate unit from the probe itself and is easily removed and re-installed for field operations. The annual maintenance requires replacing common batteries in the telemetry unit.

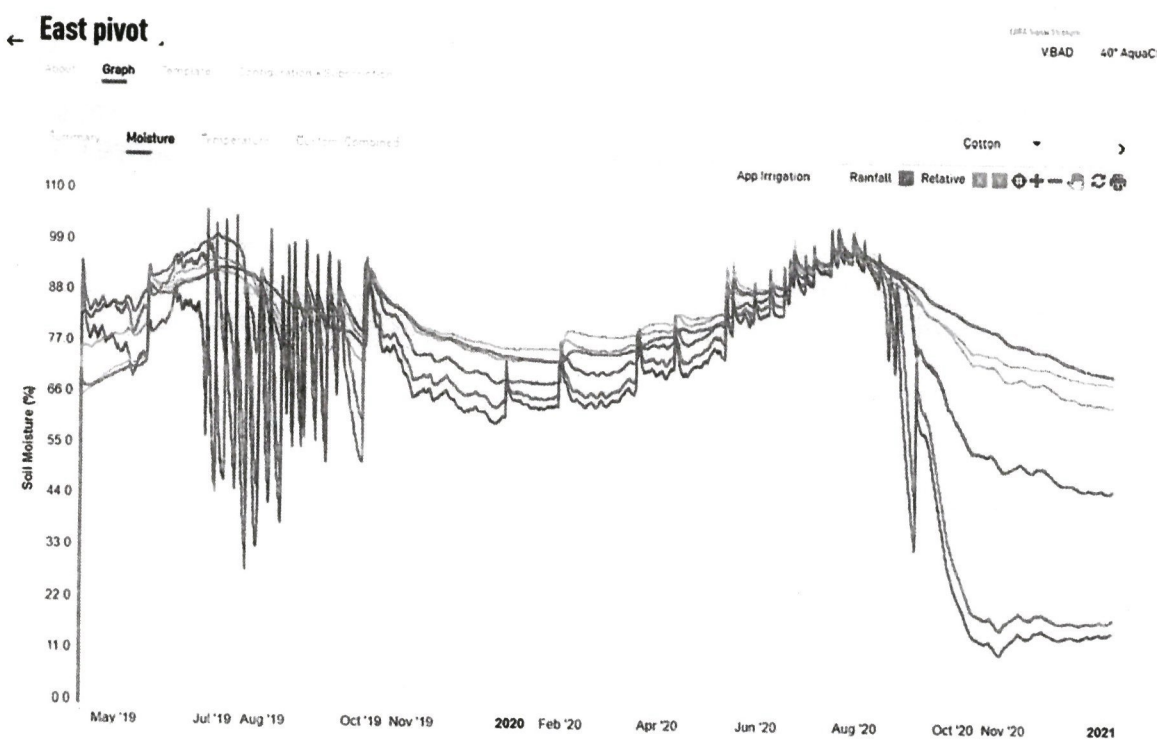
In 2020, GroGuru probes were installed in the four irrigation frequency demonstrations in the South SDI field, making 7 total probes at the WCC. It is likely that permanent probes will be additionally installed in the North SDI zones for the 2021 season.

In operation, the permanently installed probes are a proper upgrade on the existing soil moisture probes like the AquaSpy. It is likely that modifications will be made to the AquaSpy hardware to offer permanent installation in field crops as their platform is currently being used permanently in orchard settings.

Unique irrigation decisions were made in 2020 because of input by the permanent soil moisture probes. The first was the confidence to initiate a pre-water event in the West Pivot Corn. This decision was made 7-weeks prior to the date when a standard probe would be installed in the West Pivot. During the season, the GroGuru and AquaSpy probes functioned similarly and in all respects were comparable products. After the AquaSpy probes were removed at the end of the season, the GroGuru probes continued to share data. This continued data was very helpful in following the water extraction rates in both the corn and cotton crop through harvest. Post-harvest, the GroGuru probes were immediately providing off-season data and are currently logging 7 locations at the WCC.

Without residual expenses of installation and removal of the probes, the GroGuru price point is significantly less than the AquaSpy probe if used for more than one season. It is suggested that the installed probe should be functional for 5-7 years with the current battery and energy consumption. The continuity of a permanently installed probe should prove to offer a better, more consistent measurement of the actual soil for each specific location. This should address one of the principal criticisms of capacitance-based probes. This will be under review at the WCC.

Figure 4: GroGuru chart of the East Pivot from May 2019 through December 2020. The 2019 crop was corn, and the 2020 crop was cotton. The permanent probe allows for comparison between the two crops in the same field from season to season and a relative probe calibration for each site. Additionally, off-season precipitation can be tracked for depth of infiltration, etc.



Cotton Populations

For the third consecutive season, higher population cotton plots outperformed lower population plots in most meaningful measures. Water use efficiency, yield, turnout, and quality were all better in the higher population plots in 2020. The economics are not obviously better because of the added costs associated with additional seed. This will continue to be an area of immediate and future investigation.

In 2020, the best cotton plot was in Span 4 of the East Pivot. This plot was planted at 110k seeds per acre and produced 2.77 bale / acre and loan value of \$0.503 (on a \$0.52 base) while utilizing 23.03-inches of total water (7.3-inches of irrigation).

Important considerations regarding the cotton populations in 2020 include:

1. The performance of the 90K seeding rate was very similar to the 110K rate. The marginal stand across the cotton crop is an important qualifier truly categorizing what the actual "ideal" seeding rate is, but the ratio of seed drop indicated that the higher seeding rates were markedly better than the lower rates.
2. Early season weather has been limiting performance of cotton at the WCC, primarily in the way of compromised stands. The higher seeding rates have mitigated some of the losses by sheer seed volume. A preferred approach would be to secure high net germination rates as well.

Figure 5: Cotton stands on the East Pivot at WCC

Plot	NW		SW		NE		SE	
	Stand	%	Stand	%	Stand	%	Stand	%
45K	23,200	52%	19,600	44%	23,200	52	23,200	52%
65K	31,200	48%	33,200	51%	29,200	45	31,200	48%
95K	45,600	51%	45,200	50%	52,000	58	52,000	58%
110K	57,200	52%	53,200	48%	60,000	55	58,000	53%

Early season cotton management is critical

For the past two years, the planting date at WCC has occurred on the first week of May and has been followed almost immediately by a sustained cold front.

1. North Plains heat unit accumulation is known to be a challenge for cotton production. The focus has historically been on late-season limitations, along the lines of “there just isn’t enough time to finish the crop”.
2. There are more options for control of the crop early in the season than later in the season. Additionally, the decisions made in early season management appear to impact later season performance better than any measure that can be implemented late in the season.

Examples of that include securing a solid first position boll set and a managing internode length.

3. In the region, slightly earlier planting dates appear to perform better than the early May dates. Similarly, later planting dates (such as replant dates) do not appear to fair well at all.
4. Approximately 17-acres were replanted in the East pivot during 2020 to address marginalized stands on the outside span. In hindsight, this was not considered a useful effort as the cotton did not mature well. It likely contributed slightly to yield. The 2019 and 2020 seasons appear to indicate that a replanting is not as good of an option as just riding out a marginalized stand.
5. Variety work has been performed by Dr. Jourdan Bell at the WCC and consideration should be given to adapting some of RACE Trials results to larger plots to help with adoption of best suited varieties to the North Plains.

Figure 6: Summary of water use and yield at WCC during the 2020 cropping season.

2020								
	Hybrid / Variety	Population	Yield ²	Irr	Rain	Soil (6ft.)	Total Water	Water Use Efficiency ³
North Drip - Cotton Limited	RACE Trials	65K		7.54	12.58	7.62	27.74	0.0
North Drip - Cotton FULL	RACE Trials	65K		8.88	12.58	7.34	28.80	0.0
East Pivot - Cotton	Span 3 N - 90K	90K	2.76	7.30	12.58	4.78	24.66	56.0
East Pivot - Cotton	Span 4 N - 110K	110K	2.77	7.30	12.58	3.15	23.03	60.1
East Pivot - Cotton	Span 5 N - 45K	45K	2.30	7.30	12.58	3.74	23.62	48.7
East Pivot - Cotton	Span 6 N - 65K	65K	2.45	7.30	12.58	3.68	23.56	52.0
West Pivot - Corn	DynaGro 58VC37	32K	242.3	21.67	9.02	2.33	33.02	7.3
West Pivot - Corn	Pioneer 1366	32K	241.3	21.67	9.02	2.33	33.02	7.3
West Pivot - Corn	Pioneer 1108Q	32K	255.7	21.67	9.02	2.33	33.02	7.7
West Pivot - Corn	Pioneer 1828	32K	230.2	21.67	9.02	2.33	33.02	7.0
South Drip - Corn - 1X	DynaGro 58VC37	32K	248.2	16.84	9.02	3.29	29.15	8.5
South Drip - Corn - 2X	DynaGro 58VC37	32K	245.4	14.82	9.02	4.83	28.67	8.6
South Drip - Corn - 3X	DynaGro 58VC37	32K	243.8	17.69	9.02	3.68	30.39	8.0
South Drip - Corn - 4X	DynaGro 58VC37	32K	248.1	17.58	9.02	4.35	30.95	8.0

Highly Managed SDI outperforms LEPA in Corn

Historically, corn on subsurface drip at WCC has been a respectable performer but had not matched or exceeded the comparable LEPA pivot in yield. Upon review of the SDI corn management from previous years, it was noticed that a consistent pattern was never followed. For 2020, a detailed schedule was defined to include four different irrigation frequencies.

With SDI, irrigation frequency can be increased substantially compared to a pivot. To determine the most suitable frequency, the South SDI field was split into 4 zones with irrigation frequencies of every day, every second day, every third day, and every fourth day, all based on an irrigation system capacity of 4 GPM / acre. The premise is that the same amount of water could be applied to each plot with a difference in the frequency and duration of irrigation.

Irrigation programming created challenges due to the complexity of the schedule which was non- symmetrical; meaning that the schedule could not easily be put on a daily loop. Over the course of the season, the 1, 3, and 4-day treatments were very consistent. The irrigation measurements for the 2nd day treatment are suspect and cannot be utilized for comparisons. The yields on all 4 treatments are valid.

The consistent irrigation across all the South SDI plots maintained excellent color and vigor throughout the season.

At the end of the season, the irrigation treatment that received 0.84-inches every 4 days promoted a larger root structure and appeared to have the most consistent water extraction from the soil. This irrigation interval similarly matched summer rainfall events. The 4th day treatment yielded 248 bushels /acre on 17.58-inches of irrigation.

The soil moisture signature of the daily irrigation zone did not look as “ideal” as the fourth day treatment. However, at the end of the season, the daily irrigation treatment matched the yield of 248 bushels / acre with approximately one-inch less irrigation and one-inch less extraction from the soil, leading to the highest water use efficiency at the WCC; 8.5- bushels / acre.

The take home from this effort is that consistent irrigation management is vital for maximized performance in SDI. This principle transfers to pivots as well.

Figure 7: SDI schedule at WCC. Because of the 1, 2, 3, and 4-day frequency on the South SDI corn, this schedule is looped on a 12-day cycle. A more sophisticated irrigation controller would be necessary for a more complex schedule.

Day 1	WRT	Hours	Day 2	WRT	Hours	Day 3	WRT	Hours	Day 4	WRT	Hours	Day 5	WRT	Hours	Day 6	WRT	Hours	Day 7	WRT	Hours
9+10	2	2:51	9+10	2	2:51	9+10	2	2:51	9+10	2	2:51	9+10	2	2:51	9+10	2	2:51	9+10	2	2:51
13+14	5	8:33	11+12	3	5:42	17	9	21:09	11+12	3	5:42	15+16	7	11:24	11+12	3	5:42	13+14	5	8:33
15+16	7	11:24	1+2	10	3:57			0:00	13+14	5	8:33	17	6	9:45	1+2	10	3:57	17	8	12:36
17	1	1:12	3+4	10	3:57			0:00	1+2	11	3:27			0:00	3+4	10	3:57			0:00
		0:00	17	4	7:33			0:00	17	11	3:27			0:00	17	4	7:33			0:00
					0:00						0:00						0:00			
Day 8	WRT	Hours	Day 9	WRT	Hours	Day 10	WRT	Hours	Day 11	WRT	Hours	Day 12	WRT	Hours						
9+10	2	2:51	9+10	2	2:51	9+10	2	2:51	9+10	2	2:51	9+10	2	2:51						
11+12	3	5:42	15+16	7	11:24	11+12	3	5:42	17	9	21:09	11+12	3	5:42						
1+2	5	8:33	17	6	9:45	13+14	5	8:33			0:00	1+2	10	3:57						
3+4	11	3:27			0:00	1+2	11	3:27			0:00	3+4	10	3:57						
17	11	3:27			0:00	17	11	3:27			0:00	17	4	7:33						
		0:00												0:00						

Highly managed SDI outperforms LEPA in corn

The best yielding corn plot on the WCC was the Pioneer 1108Q plot on the West Pivot which produced 255.7 bushels / acre. The baseline hybrid at WCC was Dyna-Gro 58VC37 which was planted on the West Pivot and in the South SDI field at 32K seed per acre. In the West Pivot, 58VC37 was the second-best yielder at 242.3 bushels / acre.

Figure 8: Dyna-Gro 58VC37 yields across the South Drip management zones and on the West Pivot.

Plot	Yield	WUE
South Drip - Corn - 1X	248.2	8.5
South Drip - Corn - 2X	245.4	NA
South Drip - Corn - 3X	243.8	8.0
South Drip - Corn - 4X	248.1	8.0
West Pivot - Corn	242.3	7.3

All treatments on the South SDI out-yielded the equal plantings in the west pivot. Nominally, the SDI treatments required 4-inches less irrigation water than the LEPA pivot with slight variations based on irrigation timing. All treatments were limited to 4 GPM / acre.

The differences in applied irrigation between SDI and LEPA was related to three principles: Improved irrigation efficiency, frequency of irrigation, and the ability to stop and start irrigations quickly.

In 2020, beneficial rainfall events during the summer allowed for multiple pauses in irrigation due to adequate soil water storage. The pivot strategy was to make 1.68-inch irrigation application, which equates to an 8-day lap. Starting and stopping a pivot requires some effort and the risk of getting a pivot stuck after sitting for a few days is a real consideration. Further, since the pivot takes a full lap to return to the location immediately previous to its current location, a rainfall event less than the application rate is usually not cause to stop the pivot.

However, with drip irrigation, the system can immediately begin irrigating exactly where the system was paused and can be paused for any duration of time. For instance, a 1/2-inch rainfall event would equate to 2.5-days of irrigation capacity. Thus, an SDI system can reasonably be paused for a 2-3-day window and be restarted exactly where it stopped following a 1/2-inch rainfall event. In 2020, this led to the SDI system being able to be shut down for nearly 20-days during the summer and still entered pollination with a full soil profile. This 20-day downtime is the major contributor to the difference in irrigation volume between SDI.

Master Irrigator 2021

To date, 23 of the registrants for the 2020 program have elected to keep their places reserved for the 2021 Master Irrigator. In addition, two new participants have been added to the class, bringing the class to the limit of 25 participants. Since there are operations/families with more than one participant in the 2021 class and some operations/families represented who have had participants in previous classes, registration will remain open until the official closing date of March 13, or until all duplicates are replaced. Dates for the 2021 Master Irrigator Program are March 24 & 31 and April 7 & 14.

At the June 2020 board meeting, a set of guidelines and an application were approved by the Board to establish a process for distribution of the TWDB funds to Master Irrigator graduates. However, some questions about the distribution of the funds have arisen that need to be addressed and formalized as part of the distribution process.

First, the guidelines and contract set a limit of \$10,000 in cost-share funds for each applicant.

Should the limit apply to each operation, or to each participant, regardless of their organization?

Does the limit apply for the duration of the Master Irrigator Program, or does it renew each year?

Second, depending on the answers to the previous questions it may be necessary to determine prioritization of person/entity applying for funding.

A suggested prioritization could be: first, current year graduates whose operation has not received funds; second, previous year graduate whose operation has not received funds; third, current year graduates whose operation **has** previously received funding and finally, if multiple applicants have previously received funding, the priority would go to those previously receiving the lesser amount.

Daniel L. Krienke moved to approve the recommendations of the Ag Committee as presented for the Master Irrigator Program. Harold Grall seconded the motion, and it was unanimously approved by the Board.

Harold Grall moved to approve the demonstration proposal of Nich Kenny as presented for calendar year 2021 at the Water Conservation Center. Daniel L. Krienke seconded the motion and it was unanimously approved by the Board.

Action Agenda 3.e. - Receive report and consider action regarding the District's TWDB Loan Program for conservation equipment to producers.

Mr. Walthour stated that the loan program promotional campaign continued through January. The District has received 15 inquiries over the past year, with no applications being filed. In 2020, the District paid \$8,038.30 in interest and returned \$100,000 in principle to the TWDB. In May of 2021, the District will owe \$14,310 in interest, as well as the \$100,000 of the principal. It appears the current interest offering of 2.59 percent is not competitive with other financing options available.

The outreach team has promoted the loan program using social media and traditional media, including radio and newspaper at various times throughout the last year. The most recent campaign started in mid-October with social media and ran through the end of January with radio spots. The last week from the time of this report, we did receive 3 inquiries.

Daniel L. Krienke moved to approve the recommendation of the Ag Committee to pay off the remaining balance of the equipment loan funds to the Water Development Board and to authorize the General Manager to take any action necessary to cancel the loan. Zac Yoder seconded the motion, and it was unanimously approved by the Board.

Action Agenda 3.f. - Receive report regarding 2020 Annual Production Reporting.

General Manager, Steve Walthour, reported to the Board that approximately 2,928 production reports for 2020 were sent to producers via mail or e-mail by December 4, 2020. The District has received a little more than 1,100 production reports. There are approximately 3,000 production reports that need to be returned to the District by producers and there is about three weeks remaining to do so. Casey Tice is working with Kirk Welch to get the message out to producers that you have to get your production report turned in by March 1, 2021. The District is a little bit behind where it was two years ago. Last year we were going great guns up until COVID-19 hit. We anticipate having almost all of the production reports in by March 1 and that's the deadline. Mr. Walthour stated that he has told his staff if you are out in the field and you run across a farmer, just remind him, as a courtesy, that we have this March 1 deadline. My staff in the office should be letting people know when they call, if they perceive that they are a producer, to remind them of the deadline also.

Mr. Walthour stated that the District would put spots on the radio about the March 1 production report deadline, if it has not already been done.

Action Agenda 3.g. - Receive report and consider action as needed regarding Groundwater Management Area 1 Joint Planning.

Steve Walthour presented the following report:

The Groundwater Management Area 1 Joint Planning Committee met on January 21 through virtual media. All district representatives were present. Bob Zimmer, Chairman, presided over the meeting from North Plains District offices. Representatives from the Texas Water Development Board advised the committee that the TWDB approved the sixteen regional water plans for the current state water planning process. GMA 1 uses data from the most recent regional water plan when considering the factors required for joint planning in Texas Water Code 36.108(d). In addition to Director Zimmer, Daniel L. Krienke and Steve Walthour attended the meeting.

The Committee received a presentation by Wade Oliver, INTERA, reviewing the factors that the district representatives have considered over the past year. In addition to update modeling efforts and new research, the committee is using the information provided by Keith Good and other attorneys regarding private property rights considerations during the last round of joint planning. Later this spring, this Committee will propose Desired Future Conditions to begin the public hearing and adoption process that must be completed by January 1, 2022.

The next Committee meeting is set for February 18, 2021 as a virtual meeting. During that meeting, the district representatives are scheduled to consider a draft explanatory report.

Action Agenda 3.h. - Receive report regarding Regional Water Planning Area A.

The General Manager stated that in January, the Texas Water Development Board (TWDB) approved the 2021 Regional Water Plan adopted by the Region A Planning Committee. The TWDB will now incorporate the Region A plan with the 15th other Regional Plans to create the 2020 State Water Plan. Development of the state water plan is central to the mission of the TWDB. Based on 16 regional water plans, the plan addresses the needs of all water user groups in the state – municipal, irrigation, manufacturing, livestock, mining, and steam-electric power – during a repeat of the drought of record that the state suffered in the 1950s. At the end of each five-year regional water planning cycle, agency staff compiles information from the approved regional water plans and other sources to develop the state water plan, which is presented to TWDB's governing Board for adoption. The final adopted plan is then submitted to the Governor, Lieutenant Governor, and the Texas Legislature.

In addition to incorporating the regional water plans, the state water plan serves as a guide to state water policy and includes legislative recommendations that the Board believes are needed and desirable to facilitate voluntary water transfers. The plan also identifies river and stream segments of unique ecological value and sites of unique value for the construction of reservoirs that the Board recommends for protection.

The Region A Water Planning Committee will meet later in February or early June to wrap up any loose strings related to the 2021 Region A plan. Steve Walthour serves as the representative for the District and Daniel L. Krienke serves as the GMA-1 representative on the Committee.

Action Agenda 3.n. - Consider General Manager's request to update signature cards at Perryton National Bank and First State bank of Stratford.

The General Manager requested that the authorized signature cards at Perryton National Bank, account numbers 116, 256, 337, 515, 531 and 566, and First State Bank of Stratford account number 9005805 be updated to reflect the following individuals as signatories:

Steven D. Walthour, Dale Hallmark and Kristen Blackwell.

Harold Grall moved that the Board approve updating the signature cards at Perryton National Bank, account numbers 116, 256, 337, 515, 531 and 566 and First State Bank of Stratford, account number 9005805 to Steven D. Walthour, Dale Hallmark and Kristen Blackwell as signatories on said accounts. Mark Howard seconded the motion, and it was unanimously approved by the Board.

Discussion Agenda 4.c. - General Manager's Report.

Steve Walthour presented a report to the Board, which included the General Manager's activity summary, the District's activity summary, permits issued by the District in January 2021, post-drill well inspections as of January 2021 and capped well and random inspection compliance 2020 as of January 2021, and upcoming meetings and conferences.

Mr. Zimmer stated that he encouraged all of the Board members, if you know of anybody who would attend the Master Irrigator program, that there are a few slots left, so please help get them filled. This program is a great testimony at the state level that we are doing our bit up here to promote conservation and making things work.

Mr. Good reported that he's been watching the petition that is before the Texas Supreme Court, Neches and Trinity Valley GCD vs. Mountain Pure, LLC and we haven't had any developments there. Mr. Good stated that several briefs have been filed and Steve, Ellen and I have been reviewing those. To me, the question that is still down in the trial court, is very critical as to whether the Supreme Court takes this petition or not. What is pending in the trial court, is whether or not Mountain Pure processes groundwater or surface water. Of course, we talked about the fact that Mountain Pure has put in a concrete well down, and it has all the smackings of a well, but Mountain Pure is arguing that it is surface water and that that the groundwater conservation district, by filing suit to enforce its rules, as a well, was a taking. Therein lies the danger of the case that an enforcement process – there is no challenge to the rules of the district, or of state law, or anything like that, it's just the fact that that the groundwater conservation district took the position with Neches that the well is producing groundwater and that it was going to enforce its rules and export fees and all the related items that were in its rules. So, the question is, is an enforcement action sufficient to create a taking? There have been no penalties assessed; there is no intrusion on the property, as far as prohibiting access to the property; and Mountain Pure, the producer, has every right to produce that groundwater, or that surface water, whatever it is, but that question is not before the Supreme Court, whether it is surface water groundwater, or groundwater.

Mr. Good stated, Steve, you have read the amicus brief, do you have any comments there?

Mr. Walthour stated that they were calling the thing that looks and smells and taste and quacks like a well a catchment basin. My professional opinion, is that it sure looks like a well to me. I haven't looked at that many wells, thousands over the years, seems to be a well.

Mr. Krienke inquired whether the lower court ruled?

Mr. Walthour responded no.

Mr. Krienke inquired did they just go straight to the Supreme Court?

Mr. Good responded that the lower court (trial court – district court) ruled in favor of the producer that there was a taking, and that was the essence out of the trial court. The water district appealed it to the appellate court, like our Amarillo Court of Appeals, and the appellate court wrote, what I believe to be an excellent decision, stating that basically an effort to enforce its rules does not rise up to a taking. Then, Mountain Pure, the producer, has appealed that to the Texas Supreme Court. The Texas Supreme Court will either accept the petition or deny it. Today, we don't know whether that there's been a decision by the Supreme Court. If it's denied, the appellate court decision will stand, and it will go back to the trial court. The appellate court, between the trial court and the Supreme Court, had remanded the case back to trial for the decision as to whether or not this is surface water or groundwater. As I said, that decision is lurking out there and to me, it's a critical decision because if it's groundwater, then the groundwater district has every right to move forward with enforcement.

Mr. Walthour stated, the reason, from a general manager's perspective, that we're following this is because a negative call at the Supreme Court level that this action by the groundwater conservation district being a taking would permit someone didn't want us to enforce the rules to just claim it was a taking and go to the Supreme Court.

Mr. Good responded that's precisely the problem.

Mr. Krienke stated that I guess they could still get a surface water permit.

Mr. Walthour responded, maybe, maybe not.

Mr. Good stated that Mountain Pure has worked with TCEQ, as far as a public water supply, and got authority to do that. I don't know, and I don't think that it has ever been discussed, whether they have a permit to mine surface water.

Mr. Krienke inquired if they bottled water and then through their distribution network distributed it out of the district would that be export?

Mr. Good responded, it is, and that's an issue, too. The groundwater conservation district has as an export fee that it would assess.

Mr. Good stated, just as a point, our District, and all political subdivisions, have sovereign immunity from suit and the only exception to that that I know of, and that would be relevant to us, is as a political subdivision taking a private property right for public use and that is the essence of a taking claim. It so happened in the trial court, Mountain Pure sued the groundwater conservation district for tortious interference with its property rights, as well as the taking claim. The groundwater district objected to those claims on the theory of sovereign immunity of a political subdivision. The tortious interference claim was dismissed by the trial court, but not the taking claim and the trial court granted the taking claim. So, that's how it got to where it is today --- but the trial court never got to the issue of whether Mountain Pure was producing surface water or groundwater.

Action Agenda 4.a. - District Director Reports regarding meetings and/or seminars attended, weather conditions and economic development in each Director's precinct.

District Director reports were presented to the Board regarding meetings and/or seminars attended, weather conditions and economic development in each Director's precinct.

Discussion Agenda 4.- Discuss Items for Future Board Meeting Agendas and Set Next Meeting Date and Time.

President Zimmer asked if anyone had anything to be placed on the February 2021 Agenda.

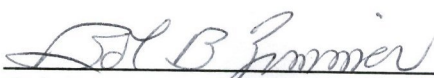
By consensus, the Board set its next regular Board meeting via Zoom at 9:00 a.m. on March 9, 2021.

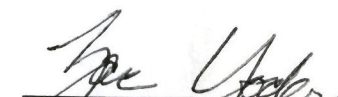
Discussion Agenda 4.b. - Committee Reports.

Except as previously stated herein, no other Committee reports were presented to the Board.

Agenda 6. - Adjournment.

There being no further business to come before the meeting, Harold Grall moved to adjourn the meeting. Daniel L. Krienke seconded the motion and it was unanimously approved by the Board. President Zimmer declared the meeting adjourned at 10:37 a.m.


Bob B. Zimmer, President


Zac Yoder, Secretary